

LAW AND JUSTICE COMMITTEE

J. Mark Taylor, Chairman

Gordon Bjorklund

Skip Burt

Tom Hale

Melinda O'Connor

Kelly Potter

Larry Rich

Frank Travis



LAW AND JUSTICE COMMITTEE

The Law and Justice Committee experienced a very active year of investigation. Our term enabled us to focus on the following five areas:

- West Valley Detention Center
- District Attorney
- Probation
- Sheriff/Coroner
- Public Defender

West Valley Detention Center – Early release of prisoners became the initial subject of investigation, particularly after it was discovered San Bernardino County release percentages were almost 40 percent higher than surrounding counties. Upon discovery of capacity issues and laws imposing early release, the need for additional detention facilities was evident. Due to our desire for this issue to be included in the County's budget planning process for 2006, an Interim Report was released in March.

District Attorney – This subcommittee was initially motivated by DUI repeaters, failures to appear in court, and subsequent outstanding warrants. Ultimately it was discovered there were over 144,000 warrants, including over 14,000 felony warrants. Discussions ensued regarding formation of a "warrant unit", and the District Attorney's staff took ownership of this project and met with the Sheriff and local city police. The groundwork has been accomplished and we will soon be hearing of results from the warrant unit. Kudos to law enforcement personnel in San Bernardino County.

Sheriff/Coroner – The Board of Supervisors in February 2006 authorized \$2.6 million to the Sheriff to improve Coroner facilities. While this did address much needed issues at their main facility, the satellite facility in the high desert was not addressed. Our Final Report makes recommendations that would alleviate concerns that arose as a result of our investigation.

Public Defender – With a new Public Defender appointed in mid-March, time must be allowed for potential new policies to be put in place. However, the issues of failing to identify illegitimate indigents and cost of defense of illegal immigrants were two issues addressed in the Final Report.

Probation – Because of the time required to make quality investigations into other departments, Probation was given only a cursory investigation, with no concerns arising.

On behalf of all members of the Law and Justice Committee, we thank the Sheriff and his staff, the District Attorney's staff, and all department heads for their cooperation and support during our term. What follows represents our findings and recommendations, in detail.

DISTRICT ATTORNEY

PUBLIC INTEGRITY UNIT

BACKGROUND

The San Bernardino County District Attorney campaigned on the issue of restoring public integrity to San Bernardino County. Within the first four months after being elected, the District Attorney created the Public Integrity Unit (PIU). He researched the surrounding counties to help him set up the guidelines for this unit and found Los Angeles to be the best to model his unit after. The Los Angeles District Attorney was very approachable and their program was aggressive. Since their program was running smoothly, the San Bernardino County District Attorney decided to adopt most of their policies.

FINDINGS

The Public Integrity Unit (PIU) is comprised of two attorneys, three investigators, and a secretary. The unit handles complaints involving those holding public offices. Some issues might involve the illegal use of campaign funds, residency violations, and open meeting/Brown Act violations. The unit is responsible for monitoring city councils and elected boards and commissions. The District Attorney's office is looking for violations of the Brown Act, Election Code, or any criminal violations.

All actions by the PIU are initiated only upon the receipt of a written complaint by a citizen, or by an investigation submitted by a law enforcement agency. They are willing to accept and return telephone calls, but no investigation is initiated until a written complaint is received. They are careful to protect the office from becoming involved in political issues. Members of the Public Integrity Unit must not endorse any political candidates or contribute to any campaigns.

Unlike the Grand Jury, the PIU will accept anonymous complaints. Many of the complaints it receives are not criminal in nature. Although many of the complaints may be unethical or morally wrong, it cannot proceed in the complaint without it being Brown Act, Election Code, or criminal in nature. After it finds nothing that falls into its purview, the PIU contacts the complainant to let them know of its findings. The Grand Jury suggested

the persons filing the complaint not fitting into the category of criminal, be advised of the option of filling out a complaint form to the Grand Jury. This would give individuals another avenue to pursue.

RECOMMENDATION

06-37 THE PUBLIC INTEGRITY UNIT OF THE DISTRICT ATTORNEY'S OFFICE INFORM COMPLAINANTS OF THE OPTION OF FILING THEIR NON-CRIMINAL COMPLAINT WITH THE COUNTY GRAND JURY.

PUBLIC DEFENDER

BACKGROUND

The Constitution provides that all persons accused of a crime be defended; those that do not have the financial means to hire an attorney will be assigned one by the Court. The County Public Defender's office has the responsibility of representing indigent clients. The office of the Public Defender provides defense services to both adults and juveniles accused of felonies, misdemeanors, and violations of probation.

FINDINGS

The Public Defender's office has 103 Deputy Public Defender positions. There are currently two (2) vacancies; however, candidates have been interviewed for the positions; one has accepted and the other was rejected.

The Department of Justice's National Advisory Commission adopted a caseload standard of *"no more than 150 assigned felonies per attorney per year, or no more than 400 assigned misdemeanors per attorney, or no more than 242 assigned juvenile cases per attorney per year."* Currently, San Bernardino County Deputy Public Defenders have caseloads averaging 694 combined felonies and misdemeanors, with an additional 116 probation violation cases. Those working the Juvenile Division have average caseloads of 448. The Public Defender's office is handling 69 percent of the District Attorney's cases with 47 percent comparative staffing.

Several neighboring counties (Los Angeles, Orange, Ventura, etc.) have programs in place to determine the ability of an accused to pay legal fees prior to being assigned to a public defender. San Bernardino County had such a program; however, it was discontinued several years ago. At the present time, San Bernardino County does not collect or review financial information from prospective Public Defender clients to determine their ability to pay fees.

In May 2004 a meeting was held with the County Administrative Officer, Treasurer-Tax Collector, Public Defender and then Presiding Judge of the Superior Court to discuss the possibility of collecting indigent defense fees. It was decided that a program to do so was feasible.

The Public Defender's office conducted a cost of service analysis and determined the average cost for a misdemeanor case was \$236, a felony case was \$784, and a juvenile case was \$487. Research done by the Treasurer-Tax Collector suggests that with accurate Social Security information, a 42 percent collection rate could be attained.

With the approval of the Courts, the Treasurer-Tax Collector developed a program to determine the ability to pay, using the defendant's credit scores. At arraignment, a short questionnaire providing name, Social Security number, address, and place of employment would be filled out. The defendant's credit score and property ownership would be checked, and depending on this information, a recommendation would be made for the amount to be paid/collected.

The 2004-2005 Presiding Judge of the Superior Court instructed all judges of the new procedures in Court-appointed counsel fees and the importance of making the program work. This occurred in September of 2004. Thirty (30) days later the Presiding Judge withdrew his support of the program, which caused the program to be unsuccessful. The action of that Presiding Judge cost the County millions in lost revenue.

The Grand Jury's quest to find the cost of services provided undocumented immigrants has determined that during the past year approximately \$9,120,000 of the Public Defender's budget has been used for this purpose. The Grand Jury does not advocate withholding services.

RECOMMENDATIONS

- 06-38 INCREASE THE PUBLIC DEFENDER'S STAFFING TO MEET THE GUIDELINES OF THE DEPARTMENT OF JUSTICE'S NATIONAL ADVISORY COMMISSION CASELOAD STANDARD.
- 06-39 INSURE FINANCIAL STATEMENTS BE COMPLETED AND DEFENDANTS' ABILITY TO PAY BE DETERMINED PRIOR TO BEING ASSIGNED A PUBLIC DEFENDER.
- 06-40 THE PUBLIC DEFENDER'S OFFICE NOT ACCEPT CLIENTS THAT ARE KNOWN TO HAVE THE FINANCIAL RESOURCES TO HIRE AN ATTORNEY.
- 06-41 DIRECT THE TREASURER-TAX COLLECTOR TO PROCEED WITH THE INDIGENT DEFENSE FEES COLLECTION PROGRAM.

SHERIFF-CORONER

CORONER DIVISION

BACKGROUND

It is the responsibility of the Coroner to determine the cause and manner of death of San Bernardino County residents. The Coroner's office is also tasked with identifying the deceased and notifying their families. The central Coroner's facility is located in San Bernardino and was built in 1987.

FINDINGS

The Coroner's Division conducted 9,552 investigations in 2005. It receives notification of about 26 deaths per day; of these, about five are actually transported to the Coroner facility.

The Grand Jury applauds the Board of Supervisors for recently allocating \$2.6 million for much needed improvements and 15 new positions. This includes seven investigators, five autopsy assistants, two Sheriff's service specialists, and one additional part-time medical examiner. These authorizations were focused on improvements for the central facility.

The Coroner's central facility is now going through an overhaul. The Public Administrator and Public Guardian offices have moved out of the south wing. The Coroner's administrative personnel will move into that area. The north wing will be remodeled and expanded, enlarging the refrigeration area and adding a much-needed freezer.

Although funds have been allocated for improvements at the central facility, the High Desert facility remains a problem. This small, antiquated office serves 18,000 square miles of San Bernardino County desert. The office is staffed with three investigators, one clerical position, and one supervisor. The supervisor serves as an investigator 30 of 40 hours per week. The High Desert facility is under-staffed. There are currently no autopsy or assessment areas in the High Desert facility. Having these services available would eliminate the necessity of moving the deceased to the central facility and would reduce transportation costs.

The Victorville facility is located in a tri-plex strip mall. The neighbors on either side are a martial arts studio and offices for a construction company. They are separated by 5/8" thick drywall. The garage door in the rear of the building isn't large enough for a vehicle. While they attempt to be as discreet as possible, body deliveries/releases are made in public view.

The evidence/belongings room appears to have been a closet. There is a refrigeration unit that was acquired in 1998. This unit has the capacity to hold 10 bodies and is for short-term use. Often bodies found in the desert are badly decomposed and odor becomes an issue for the Coroner's office as well as their neighbors. There are no back-up generators, so power loss would be critical. The facility is not open 24 hours a day, and security is minimal.

RECOMMENDATIONS

- 06-42 RELOCATE THE CORONER'S HIGH DESERT FACILITY UNTIL A NEW FACILITY CAN BE BUILT.
- 06-43 BUILD A NEW CORONER'S FACILITY IN THE HIGH DESERT TO INCLUDE AUTOPSY AND ASSESSMENT AREAS.
- 06-44 INCREASE CORONER STAFFING IN THE HIGH DESERT.

SCIENTIFIC INVESTIGATIONS DIVISION

BACKGROUND

The Sheriff's Scientific Investigations Division provides support in the investigation of crimes committed within the County of San Bernardino. Division personnel use state-of-the-art procedures and equipment to assist in solving crimes. These procedures and equipment include evidence monitoring, crime scene investigation, photos, evidence-gathering, ballistics testing, and the testing and analysis of DNA. The Scientific Investigations Division is currently located in a converted warehouse. Several members of the Grand Jury visited the facility on March 23, 2006.

FINDINGS

The facility does not provide adequate space for staff to fully accomplish their mission. Analysts doing the same type of work are not located in common work areas, but scattered throughout the facility. This requires workers to leave their work areas and travel to another part of the facility to do testing because the sophisticated, one-of-a-kind testing equipment is not located near them. In addition, the actual workspace for criminalists is well below the recommended FBI standards which recommend 1,000 square feet per employee. The current space allows for only 386 square feet per employee (17,000 square feet for 44 employees). There is not adequate indoor space to forensically inspect more than one vehicle at a time. We were shown a car suspected of being used in a robbery and murder several days earlier. The car could not be garaged to protect possible evidence because the one garage stall was being occupied by another vehicle also involved in a murder investigation. The outside evidence retention facility is a small fenced area not protected from weather conditions, degrading possible evidence.

San Bernardino County is critically understaffed. The number of trained criminalists and DNA analysts has not kept up with the growing County population. San Diego County passed an ordinance requiring one DNA analyst for every 100,000 people, which has resulted in their now having 20 DNA analysts. Based upon that formula, with the current San Bernardino County population estimate at 1,990,000, we should also have a staffing of 20 DNA analysts. Currently there are six DNA analysts, with four more in training. There are only nine Crime Scene Investigators on staff. This has forced the Division to respond predominantly to homicides, brutal rapes, and officer-involved shootings.

RECOMMENDATIONS

06-45 PROVIDE ADEQUATE WORKSPACE FOR THE SHERIFF'S SCIENTIFIC INVESTIGATIONS DIVISION, TO INCLUDE PLANS FOR FUTURE GROWTH OF THE COUNTY.

06-46 HIRE ADDITIONAL DNA ANALYSTS AND CRIME SCENE INVESTIGATORS.

INTERIM REPORT

(Released March 2, 2006)

AND YOU THOUGHT "IN-N-OUT" WAS A HAMBURGER!

BACKGROUND

For over 10 years, the County Board of Supervisors has been well aware of the severe shortage of available jail space to house San Bernardino County criminals. In 1995 the Board of Supervisors authorized a Staffing Analysis Study completed by Liebert & Associates from Boulder, Colorado. At that time it was recommended to not only increase jail staffing, but emphasized that housing was precariously close to maximum capacity and should be increased as well.

FINDINGS

In 2005 there were a total of **110,537** bookings made by law enforcement agencies in San Bernardino County. Of those, **42,240** or nearly **40 percent** of sentenced and pre-sentenced criminals were quickly released back into our communities because our jails were at capacity and their crimes were considered to be non-violent misdemeanors or felonies; crimes such as driving under the influence, burglary, grand theft auto, just to name a few. On average, one criminal was released every **13 minutes** in 2005 due to a lack of jail space. Therefore, in less than the amount of time it takes you to get a hamburger at IN-N-OUT, another criminal who should be in custody has been released from a San Bernardino County jail. **IN-N-OUT!**

Until the recent opening of the Adelanto Detention Center in January 2006, housing capacity had not been increased, and staffing was only added to accommodate the opening of the Adelanto facility itself. Even with this welcomed addition, it took less than 30 days to again reach capacity in San Bernardino County jails. In addition, the governor currently has put forward a proposal that would house parole violators in county jails, which will only exacerbate the problem in this County. During the past ten years, the County population has increased well over 20 percent, and with the current housing development taking place, it is estimated to increase by at least 15 percent in the next ten

years. There is not enough jail space in San Bernardino County and, as a result, the Sheriff is forced to approve early release to many of those who are arrested or currently in jail.

During just a 15 day span in December 2005, one individual was involved in grand theft auto on five separate occasions, booked at the West Valley Detention Center and, in the first four thefts, was released within 12 hours in each case. In the fifth incident there was a high-speed pursuit which resulted in a collision, and the individual was finally held in jail.

On July 24, 2005, another individual, arrested for his fourth DUI in four years, was also booked and released at West Valley, but with very tragic results. Two innocent Moreno Valley teenagers were killed by this individual as he drove on the 215 freeway in the wrong direction, resulting in a head-on collision. This incident occurred less than 30 days after his last "misdemeanor" release.

If you're not yet moved to action, consider the **140,000** current outstanding warrants in the County, over **14,000** of which are felony violations. Before the Sheriff and District Attorney can join forces to get these bad guys off the street, they must have a place to incarcerate them. Until then, these bad guys are **OUT-N-NEVER IN!**

An agreement with the United States Federal Marshal's Service, approved by the County Board of Supervisors in 1999, requires that the County house **320** Federal prisoners. Presently, there are over **500** Federal prisoners in San Bernardino County jails. In addition, on any given day, there are approximately **700** illegal aliens occupying space in our County jails. In late 2005, nine (9) new positions were authorized by the Board of Supervisors for the Sheriff to identify illegal aliens who are in custody. However, a delay by Immigration & Customs Enforcement (ICE) in providing the necessary computer networking to interface with the Sheriff's computer system has placed this project on hold.

Before you condemn the Sheriff for letting these criminals out, consider the obstacles he faces daily. The four functioning jails in San Bernardino County (West Valley Detention Center, Glen Helen Rehabilitation Center, Central Detention Center and Adelanto Detention Center) are capable of housing 5,840 inmates. These jail facilities are full! Temporary housing (72 hours or less), utilized for booking and court appearances ONLY, are available at the Victor Valley Sheriff's Station (90), Barstow Sheriff's Station (48), Morongo Valley Station (42), Colorado River Station (36) and the Big Bear Sheriff's Station (22).

Compounding the Sheriff's problem is a 1998 Federal court ruling, referred to as the "Haas Decision", which mandated that when the West Valley or Glen Helen facilities reach 90 percent capacity, a release "process" must begin to avoid overcrowding. The

current "process" allows the early release of any arrestees not involved in a weapons charge and some felony or violent crimes, and any who have a bail schedule of less than \$150,000. Thus, burglars, car thieves, DUI's and many arrested for drugs are selectively released to make room for felony and violent offenders. IN-N-OUT!

In 2001, the County purchased land in Apple Valley for the construction of a juvenile detention facility and a 3,072 bed adult jail facility, similar to the West Valley Detention Facility. As of today, no adult facility has been constructed!

RECOMMENDATIONS

- 06-47 EXPAND THE GLEN HELEN REHABILITATION CENTER TO ADD 500 BEDS.
- 06-48 EXPAND THE ADELANTO DETENTION CENTER TO ADD 700 BEDS.
- 06-49 REDUCE THE NUMBER OF FEDERAL PRISONERS IN COUNTY FACILITIES TO 320 TO CONFORM TO THE AGREEMENT WITH THE UNITED STATES FEDERAL MARSHAL'S SERVICE.
- 06-50 DO NOT RENEW THE AGREEMENT WITH THE UNITED STATES FEDERAL MARSHAL'S SERVICE WHEN IT EXPIRES IN 2009.
- 06-51 RETURN ALL ILLEGAL ALIEN INMATES HELD IN COUNTY FACILITIES TO THE IMMIGRATION & CUSTOMS ENFORCEMENT.
- 06-52 IMMEDIATELY CONSTRUCT A NEW ADULT JAIL FACILITY ON THE LAND PURCHASED IN APPLE VALLEY.